

CAMDEN PLANNING BOARD

Minutes of Meeting

April 6, 2011

PRESENT: Chair Chris MacLean; Members Richard Householder, Kerry Sabanty and Lowrie Sargent; Alternate Member Sid Lindsley; and CEO Steve Wilson

ABSENT: Member Jan MacKinnon; Alternate Member Nancy McConnel; and Jeanne Hollingsworth, Recording Secretary

The meeting was called to order at 5:30 pm.

1. PUBLIC COMMENT:

Dorie Klein representing Friends of Ragged Mountain: Ms. Klein referenced the minutes of March 2, 2011: Page 3 and the comment that facts had been misrepresented during the Friend's initial presentation to the Board. She wanted the Board to know that nothing was intentionally misrepresented by Friends of Ragged Mountain, but that, instead, there may be new information that has been presented since that time making some early information no longer true. The Chair clarified for Ms. Klein that the misrepresentations referred to here were not facts and figures, but had to do with the applicability of ordinances. It had been stated by a speaker for the Friends that the State could override a local ordinance and that is not so; and, the Board learned that the High Elevation Ordinance would indeed prohibit turbine development at elevations above 500'.

Ms. Klein then offered answers to Ms. MacKinnon's question concerning a comment in a letter to the Board from the Friends of Ragged Mountain about \$5000 spent for a feasibility study: that was money from the Town of Camden paid to an engineer from the University of Massachusetts to put wind meters on the cell tower to determine wind speed and wind consistency on the top of the mountain.

2. MINUTES:

The Minutes of February 16, 2011 and March 2, 2011 will be reviewed when the Recording Secretary is present.

3. PRESENTATION of PROPOSED HISTORIC PRESERVATION ORDINANCE

This discussion was led by Mr. Householder, Chair of the working subcommittee that prepared the draft. He thanked Kit Parker and Mr. Sargent also worked on this Ordinance and Chris Glass for offering his expertise in historic preservation issues. Mr. Householder gave a brief background on the development of the Ordinance, noting the reference in Design Standards adopted in 2010 to preserving historic features and architectural details of buildings in districts where these standards apply. He also referenced the Comprehensive Plan and the support provided there for the creation of this Ordinance whose purpose is to "Preserve, Protect and Enhance all the buildings and places or areas within the Historic Downtown Fire District of the Town, Curtis Island, and Town-owned properties within designated historic districts."

The draft had been sent to the Town Attorney for his review and comments, and those comments have just been received; the committee will meet and discuss these comments at a later date. The Historic Preservation Commission will be created by the Town consisting of five regular members and two alternates; they will conduct any review. Many more activities in this

Ordinance will trigger Design Review rather than Site Plan Review, and most will be under the purview of the Commission and not the Planning Board.

When Site Plan Review is required of a project, the Commission will review the proposal first; their permission via a Certificate of Appropriateness is required before any changes can be made to the property, and without this certificate the Applicant cannot move forward to Site Plan Review. The Commission has sixty days in which to act, and Mr. MacLean asked what happened if that deadline is not met; would the applicant then be able to go straight to the Planning Board without the Certificate? Mr. Householder replied they would not.

The Chair is interested in looking at the proposal from the applicant's point of view: Will this Ordinance pose a burden upon someone coming to Town who wants to do business here? Will it significantly slow them down? Mr. Glass responded that the first issue will be making sure they are covered by the Ordinance; this Ordinance has very limited applicability, and it may not apply. Regarding the actual standards that will be used in the analysis of the proposal, Mr. Glass stated that the standards are those adopted by the organization of Certified Local Governments. These standards are overseen and enforced by the Maine Historic Preservation Commission, the entity responsible for ensuring that the federal standards are met for properties on the National Historic Register. The Chair asked how subjective the analysis might be; Mr. Glass replied that some find it subjective, others who may be more knowledgeable of the process, do not. Mr. Sargent responded that the Committee attempted to address the concerns that the analysis was subjective by requiring that one of the members of the Commission is an architect with substantial experience in historical preservation issues. The expertise of someone familiar with the standards, and with the processes used by the Maine Historic Preservation Commission, will be of help in evaluating plans brought before the Commission. A Planning Board member may sit, as a private citizen, on this Commission.

Regarding the question of the burden of review to a developer/business owner, Mr. Wilson noted that the area where private property will be involved is confined to the Great Fire District; all other properties included in a review belong to the Town. Mr. Sargent added that this review is no more onerous than the architectural review process; it is more detailed simply because of the historic nature of the properties.

The Chair suggested that the next step would be to begin Public Hearings, but Mr. Wilson suggested that the Committee be given time to address Mr. Kelly's concerns. In his review of Mr. Kelly's comments Mr. Wilson finds that many of the attorney's concerns have to do with the origin of the language used. The Committee relied heavily upon Ellsworth's Ordinance, but Ellsworth, as well as Belfast (another Ordinance used in the drafting), have Town Council governments with more latitude in decision-making than does Camden's Select Board. Camden will need to adjust their language to account for the differences when they outline the approval authority vested in the Select Board by the Ordinances. He believes the Committee should work on Mr. Kelly's recommendations, then bring the revisions back to the Board before proceeding to Public Hearings. Mr. Householder agrees, and suggests the Committee meet with Mr. Kelly to begin the process of revision.

The Committee will look at how to send this proposal forward: they could recommend amending the existing Zoning Ordinance to create the Commission instead of creating a free-standing ordinance.

The Chair suggested that the Committee think about taking a presentation to the Downtown Business Group to get their feedback early in the process; the more the Board has reached out in advance of sending a proposal forward to hearings, the more successful their proposals have been.

If any members of the Board have comments for the Committee, they can email those comments through Mr. Wilson to the Committee; those comments will be available to the public through Mr. Wilson.

4. DISCUSSION:

1. *Minor Field Adjustments:* There were none
2. *Site Plan Pre-applications:*

A. Future Tannery Project: B'D' Turman'd Entertainment LLC:

This group responded to Camden's offer of free land at the former tannery site for a promise to create jobs, and has been in discussion with Town officials about their proposal. One of the principals and the group's attorney are in Town this evening from Louisiana. The Chair had asked the CEO to pass along a request to the men, asking them to attend the Planning Board meeting so the Board could discuss with them how they might handle review of the Site Plan for development of the property if the proposal passes Town Meeting in June. The men are not available until later this evening so this agenda item will be held for their arrival.

B. Spear Subdivision:

This issue of joint review was discussed at a previous meeting when the Board reviewed a Spear subdivision which lies within both towns. That subdivision was approved by the Board, (after they waived joint review because the Town of Rockport had already approved the subdivision). But, since then other issues have arisen and the Town Attorney submitted a memorandum for the Board's review regarding the process of reviewing a new application for subdivision of the Spear land. The family now wants to divide out the portion of the previous subdivision's mother lot that lies within the Town of Camden, and this new division would again involve a joint review with the Town of Rockport. The family has a Purchase and Sales Agreement for the Camden land, and needs subdivision approval to create the actual lot so it can be sold.

Mr. Wilson informed the Board that Mike Sabatini of Landmark Associates, the surveyor of record for the original subdivision, agrees that the best way to fix all the problems associated with the lack of information and miscommunications between the family and the Towns, is to start over; because no plat was received for the Board's signature within the required thirty-day timeframe, and because nothing was ever recorded at the Registry of Deeds, the subdivision approval granted by the Camden Planning Board on February 16, 2011 is void. The Board will now be looking at a Major Subdivision of the Spear land, and at the issue of Joint Review. For subdivisions crossing town lines, the law requires that Rockport's Planning Board approve and sign a plat showing all the lands in the subdivision, even that portion that was within Camden; that was not done. Even if it had, the approved plat would have to have been accompanied by,

and cross-referenced to, Camden's approval and signing of the same version of the plat; this also never took place. Mr. Wilson went on to say that whether or not what happened resulted in the voiding of Rockport's original approval, now that there is an amended version of that subdivision being proposed, Rockport must review the subdivision again.

The Chair noted that Attorney Kelly has said that Rockport's approval was voided through these errors, and there is now no approved subdivision in Rockport. However, one of the lots in the original Rockport subdivision has been sold already, and the single lot that will be created out of the land in Camden is under contract, yet neither of these lots actually exists; this situation can only be corrected through the approval of a new subdivision application.

The CEO explained how the process of Joint Review would occur: Rockport's Planning Board would attend a Camden Planning Board meeting and Landmark Associates would make a single presentation. They would answer any questions of either Board, or any of the interested parties that will be invited as well. Each Board would then deliberate and conduct their reviews separately; it is the process of the presentation that must be conducted jointly. Mr. Wilson is asking the members of the Board how they wish to proceed in this matter.

Mr. Sargent asked what happens if Camden follows the procedure outlined by Mr. Kelly, but Rockport does not. Mr. Wilson explained that the approvals must be cross-referenced on each plat. Mr. Sargent asked if the two town attorneys have discussed this matter. Mr. Sabatini said that the process of involving both towns in a review is not meshing; he is willing to be the go between. Mr. MacLean stated that Tom Ford, Rockport's planner, had not done things correctly the last time, and Camden had a last minute proposal before them in February trying to correct the mistakes. At that time Mr. Ford presented the Board with information that was not true on several levels, and Mr. MacLean prefers to follow Mr. Kelly's recommendations on how to proceed rather than follow Mr. Ford's recommendations.

Mr. Sabatini stated that he hopes that the towns can get to the bottom of this: he has begun the process with Camden by submitting both a pre-application and a Preliminary Plan, and if he needs to do something similar with the Town of Rockport again, he needs to find that out soon.

The Chair asked Mr. Wilson when he found out the Spears were trying to sell the Camden portion of a lot from this subdivision. Mr. Wilson replied that he read the ad in the newspaper. He then contacted the listing realtor to inform him that creating this lot this would be an illegal subdivision; the realtor was referred to Mr. Sabatini for more information. The Chair questioned Mr. Sabatini about his stated lack of awareness that the Camden land was for sale, saying that he (Mr. MacLean) found it hard to believe that Mr. Sabatini, who had been acting as the Spears' advisor, was not told of the family's plans. Mr. MacLean recalled that both Mr. Sabatini and Mr. Ford's made statements during the subdivision review that there were no plans for the Camden land; it caused him great concern when he learned that the land was being proposed for sale during the time that review took place. Mr. Sabatini stated several times that he did not find out about the sale of the Camden land until he drove by and saw the sign. He stated that his work for the family had been for a Rockport project that was concluded, and they probably did not think it was necessary to inform him of their plans.

Mr. Sargent asked if any public hearings held as part of a joint review would have to be conducted jointly; Mr. Wilson replied that would be optimum because the idea is that both

boards are proceeding with exactly the same information and on the same evidence – any time someone is bringing information in outside of the boards’ deliberations and findings of facts.

Mr. Wilson believes the first step is to find out what Rockport’s plans are with regard to Joint Review – will they waive that review or not. If they do, they must sign and send the waiver to Camden to sign as well.

MOTION by Mr. Householder (not seconded) that Steve send a letter to the Town of Rockport requesting a Joint Review of the Spears’s Site Plan Application.

Discussion:

Mr. Lindsley suggested that the CEO consult the Town Attorney in drafting this letter.

Mr. Sabatini informed the Board that he has not submitted an Application to Rockport, but that he has submitted a request that they waive review. Mr. MacLean suggested that it may be the same in Rockport that it is in Camden; no request for this waiver can be considered without an Application having been submitted. The Chair read the State Statute regarding Joint Review, and suggested that this Board should decide whether or not they want a Joint Review with Rockport. If Camden decides that they do want a Joint Review, then, as he understands the law, Rockport must agree to participate. Because the Statute reads “shall be conducted jointly”, that is the presumption of the law, and both sides must agree if this joint review is to be waived. If Camden decides they do not want Joint Review, then it will be up to Rockport to decide what they want to do; but if Camden decides to go forward with Joint Review, there will be no decision on this issue to be made by Rockport; they will be required by law to participate.

The Chair asked for a decision by the Board on how they wished to proceed:

Mr. Sargent suggests moving forward with joint review: His confidence in letting Rockport go forward independently was affected by the way they mishandled the first review; he thinks it is important that both boards are working with exactly the same information. He also suggests that the Spears be asked to cover Bill Kelly’s costs for advising the Board on this far from routine matter that was the result of the Spears’ independent actions; he believes Mr. Sabatini when he says Landmark was not aware of the proposal to sell Camden land, but the fact is they caused the Town to incur expenses to resolve problems with their family business.

Mr. Wilson added that there could be problems with the Joint Review process caused by the differing classifications of the subdivision and the relevant review processes: Camden classifies the proposed subdivision as a Major Subdivision; in Rockport it is classified as a Minor Subdivision. Mr. MacLean does not think this will create an unworkable situation; he thinks the only requirement of Rockport resulting from the differing classifications is that at least three Rockport Planning Board members will have to be present to attend an additional Public Hearing that is not part of their process; and it will require a joint Site Walk even if Rockport does not have a requirement for a Site Walk.

The Chair suggests the Motion on the Table is premature because the Board may be headed in a different direction. Mr. Householder withdrew the Motion without objection.

Members of the Board were unanimous in agreeing that Joint Review was the way to proceed. They discussed how this process would unfold, and whether or not every meeting – or most

meetings, needed to be held jointly. Mr. Sabatini suggested that the Town Attorneys should get together and agree on the actual process – perhaps with the Code Enforcement Officers present as well. Mr. Wilson was asked to initiate such a meeting informing the parties that the Board wants to conduct a Joint Review and asking: “How do they make that happen?” with a process that is defensible in review. If information from this meeting comes forward that makes this review impractical, the Board can reconsider their decision.

Mr. Wilson will be in touch with Rockport; if they agree to be at the Board’s next meeting the pre-application meeting could be held in as soon as two weeks.

3. Status of Proposed Subdivision Amendment:

The proposed amendment, *Amend Article 9 Section 4 by adding the following sentence: “No subdivision road shall be presented to the voters for acceptance until at least seventy-five percent (75%) of the subdivision lots have been issued Certificates of Compliance,* was presented to the Select Board at their last meeting and the Board voted 3 to 1 (with one absentee) to send the proposal forward to the June Town Meeting. The Chair said the debate among the members was lively, with Dana Strout from CAHO made a forcible presentation on why the amendment would be the death knell of affordable housing in Camden and Mr. Sargent presented the Board position on why this change was necessary. Mr. French was the lone opponent on the Select Board. He felt that once the subdivision is created, tax payers benefit from the increased taxes from the newly created lots and should be on the hook for repairs to the roads.

4. Bills in the Current Legislature that might impact Camden

Mr. Wilson briefed the Board on several proposals:

- To exempt man-made lakes from portions of the Shoreland Ordinance – this would affect properties on Megunticook Lake.
- To exempt cupolas, domes, widows-walks, etc. from the Shoreland height limitations. Mr. Wilson is of the opinion that this would not impact Camden because most of the buildings that would have these structures already have them and are grandfathered.
- To loosen the standards to rebuild a non-conforming structure that was not purposefully destroyed from one year to three years.
- To require that Comprehensive Plans including a strategy for ensuring municipalities meet the goals for affordable workplace housing. This would allow the imposition of impact fees on subdivisions with more than five lots to help fund workforce/low-income housing. Mr. Sargent asked how the goals that were set based on population growth will be adjusted to address a loss in population.
- Requires road associations on private roads.
- Permits a homeowner 65 years or older to carve out a 1 acre lot every year without subdivision approval as long as other local ordinances are met. Would this allow a developer to go into partnership with a 65-year old, put the property in that person’s name, and circumvent the subdivision ordinance?

5. Other:

Mr. Sargent asked if there had been any word from Linda Bean about fixing up the property behind her store with landscaping. They wanted to meet with the Downtown Planning Group to discuss this. A recent email communication from Bean stated they want to do something different, but what that “different” means is unknown.

Mr. Householder asked about the status of the Maine Uniform Building Code. Mr. Wilson replied that there are about eight different variations/amendments that will be heard in the next few weeks. At the same time, the State is trying to change the code. The local CEO group met with Representative Rector to fill him in on the problems, but no-one knows what will happen.

Reny's has decided not to go forward because of the local opposition, and decided that they will spend the money slated for this proposal elsewhere in the State. The CEO is sorry the project fell through because there were major stormwater issues in this area that would have been corrected as part of the construction.

There are businesses moving around to new spaces around Town, and some new businesses on Bayview Street as well as others that are shuffling spaces. The B'D' Turman'd project goes to public hearing next evening, and Mr. Wilson hopes members of the Board can attend just for informational purposes in case there are questions that need answering. Evidently there are problems with funding and banks caused by the delay to Town Meeting approval; this approval is an unusual component in business financing.

The Chair asked Dorie Klein if she was anticipating wind power discussion this evening since she was still in attendance, and she replied that the previous minutes had indicated this would be the case. The Chair explained that Mr. Wilson was to have obtained information for the Board to review prior to any discussion, and had not been able to do so. The item was not placed on the agenda, but because Ms. Klein had assumed it was, the Chair agreed to let her make a few remarks and considered Ms. Klein's comments an extension of the Public Comment period.

Ms. Klein referred to the minutes of the previous meeting and agreed that the Board can learn from other locations and that experience. She referenced the comments that both Mr. Wilson and Mr. Lindsley had made with regard to the cell tower exemption for elevations above 500', and she wonders if sometime down the line, someone could consider this as also creating an exemption for a wind turbine. She would like to know if this is a possibility, and the Chair asked Mr. Wilson to refer Ms. Klein's question to the Town Attorney to investigate. She then asked if the Planning Board wants to consider going forward with small or medium wind turbines in this area even if they find the 500' limitations do not open the door to wind turbines.

2. Site Plan Pre-applications:

A. Future Tannery Project: B'D' Turman'd Entertainment LLC:

The Chair welcomed the representatives to Town and offered to discuss the project with regard to Planning Board timeframes, etc. Bill Farrell, a partner in the LLC, and the group's attorney, Marty Greenberg, came forward. The Planning Board has had no role in hearing the proposal so far, and is waiting for the May 10th Town vote before they become involved. If the proposal is accepted, there is a Site Plan Review process that will follow, and that is what the Board would like to discuss. The Board wants to be able to carve out time to deal with this project immediately, and they need to have some idea of the scope of their work in order to do so. Mr. MacLean informed the guests that the Board has been a strong proponent of the re-use of that property, and is happy to serve as a resource at a pre-application-style meeting if the group wants. The Board would like to hit the ground running with the Application so they can move forward as expeditiously as possible.

Mr. Farrell thanks the Board for thinking forward to leave time for the proposal. They would need a week to ten days after Town approval to get the Site Plan prepared and begin initial discussions. Mr. MacLean asked for a general idea of the kind of development they are considered. Mr. Farrell suggested the Town's website for details of the proposal, but gave this summary: they want to build two 18,000 SF soundstages with office space attached to each to house production support needs, office space, make-up, hair, greenroom – things of that nature. The buildings are very unique in design and function, so the group has gone to a major studio designer/builder from Los Angeles. Tilt-up construction is the preferred method of construction: 12" thick concrete walls are poured on the ground and left to cure before they are raised up to form the studios walls. The walls are this thickness to provide ultimate in sound control. They want to integrate as much green construction as possible – solar panels, for example, if they can be installed without being objectionable to the neighbors. The third building will be a woodshop – or mill – to construct movie sets. This building is where a café or sandwich shop could be located someday – something that would also benefit the Millville neighborhood and those using the river walk.

They would like to build back-to-back studios so they can combine the two into one large studio if needed, but realize there are constraints with setback, etc., that must be addressed. In that case they may adjust the configuration.

Mr. Greenberg noted that they first and foremost want the buildings to fit into the neighborhood. They have one of the best design firms in the world, but they are also looking for local talent in the local architectural firms to make sure the buildings are a fit with the neighborhood. Mr. Greenberg went on to say that these are really nothing more than multi-use buildings – meetings, conferences, tours, etc., in addition to movie making – the building can be used for many purposes. There is much talk from the public about integrating the river walk and maximizing its use as part of their proposal, and they are happy to do this; he thinks that this can be a very successful enterprise.

Mr. Householder:

He asked about the construction and Mr. Farrell replied that the building is essentially a big cement box. There is a wood and metal grid to house the lighting, and a staircase up one wall for access to that area; insulation for sound and heat is vital to a successful studio – that is one reason the conversion of existing buildings to studios has not been successful on the whole in this part of the country. They want a purpose-built studio that will offer film makers the kind of modern and efficient accommodations they are used to.

What size will the parking lot be? Mr. Farrell said they do not have a definitive answer for this yet because they are not sure exactly how much parking they will be required to have. There are also site considerations relevant to the contaminated areas, and there has also been talk of find additional parking on an adjacent street or an adjacent lot.

Will the main access be from Washington Street? Mr. Farrell answered that depends on the final configuration of the buildings. That is the optimum entry site because then they would be using the contaminated areas for parking.

Mr. Farrell then stated the purpose of their coming to Camden is to integrate and revitalize the film industry and maximize the possibilities for local writers, schools, and employees.

Mr. Householder asked if they had the ordinance and suggested they become very aware of the standards for signage and exterior lighting for example. Mr. Farrell is aware how important this is to the neighbors and has had several discussions with various groups about these issues already.

Mr. Goldberg added that this group also brings a key component for success: you can have a film studio but it is not successful without films being made. This group has at least six films ready to go to production to bring in income and that is something not everyone would bring as a start-up. He also mentioned that they have talked with investors who want to be part of bringing film making to this area, so he is confident the project will succeed.

Mr. Farrell suggested their hoped for timeline is to break ground in July or August to be up and running in April or May of 2012, taking into consideration weather delays, etc. In the meantime they will start shooting two films here – one in the summer and one in the fall.

Mr. Farrell then summarized why he thinks that being in Camden will be a draw for movie makers from the northeast – as well as from other places as well, simply because the business will be in Camden, which is a draw in itself.

Mr. Sargent offered a suggestion for the next night's presentation: don't use the term "big box", it makes people nervous. Mr. Farrell said he started using the term simply to indicate the shape of the building and how it might apply to future uses like manufacturing should this venture move on; he will call it a multi-purpose facility instead.

The Chair indicated the Board's willingness to work within the Ordinance to be as helpful as possible as the group moves through the process.

There being no further business before the Board they adjourned at 7:30 pm.

Respectfully submitted as transcribed,

Jeanne Hollingsworth, Recording Secretary